

**Ruth Nettles**

---

**From:** WOODS, VICKIE (Legal) [vf1979@att.com]  
**Sent:** Friday, January 29, 2010 1:47 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket Nos. 100021-TP and 100022-TP AT&T Florida's Motion for Consolidation  
**Importance:** High  
**Attachments:** Document.pdf

- A. Vickie Woods  
BellSouth Telecommunications, Inc. d/b/a AT&T Florida  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(305) 347-5560  
[vf1979@att.com](mailto:vf1979@att.com)
  
- B. Docket No.: 100021-TP: Complaint of BellSouth Telecommunications,  
  
Inc. d/b/a AT&T Florida Against LifeConnex Telecom, LLC f/k/a Swiftel, LLC  
  
Docket No. 100022-TP: Complaint of BellSouth Telecommunications,  
  
Inc. d/b/a AT&T Florida Against Image Access, Inc. d/b/a New Phone
  
- C. BellSouth Telecommunications, Inc. d/b/a AT&T Florida  
  
on behalf of Manuel A. Gurdian
  
- D. 5 pages total (includes letter, pleading and certificate of service)
  
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion for Consolidation  
  
.pdf

<<Document.pdf>>

\*\*\*\*\*

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA622

DOCUMENT NUMBER-DATE  
00673 JAN 29 2010  
FPSC-COMMISSION CLERK

1/29/2010



Manuel A. Gurdian  
General Attorney

AT&T Florida  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301

T: (305) 347-5561  
F: (305) 577-4491  
manuel.gurdian@att.com

January 29, 2010

Ms. Ann Cole  
Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Docket No. 100021-TP: Complaint of BellSouth Telecommunications, Inc. d/b/a AT&T Florida Against LifeConnex Telecom, LLC f/k/a Swiftel, LLC**

**Docket No. 100022-TP: Complaint of BellSouth Telecommunications, Inc. d/b/a AT&T Florida Against Image Access, Inc. d/b/a New Phone**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion for Consolidation, which we ask that you file in the captioned dockets.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,  
  
Manuel A. Gurdian

cc: All parties of record  
Gregory R. Follensbee  
Jerry D. Hendrix  
E. Earl Edenfield, Jr.

DOCUMENT NO. DATE

00673-10 01/29/10  
FPSC - COMMISSION CLERK


**CERTIFICATE OF SERVICE**  
**Docket Nos. 100021-TP and 100022-TP**

I HEREBY CERTIFY that a true and correct copy was served via (\*)  
Electronic Mail, via Fascimile (\*\*) and First Class U. S. Mail this 29th day of  
January, 2010 to the following:

Charles Murphy (\*)  
Jamie Morrow (\*)  
Staff Counsels  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
[cmurphy@psc.state.fl.us](mailto:cmurphy@psc.state.fl.us)  
[jmorrow@psc.state.fl.us](mailto:jmorrow@psc.state.fl.us)

LifeConnex Telecom, LLC (\*\*)  
13700 Perdido Key Drive  
Unit B222  
Perdido Key, FL 32507  
Tel. No. (850) 304-1496  
Fax. No. (850) 439-1227

NewPhone, Inc.  
Mr. Jim R. Dry (\*)  
5555 Hilton Avenue, Suite 415  
Baton Rouge, LA 70808  
Tel. No. (225) 214-4412  
Fax No. (225) 214-4111  
[jimdry@razorline.com](mailto:jimdry@razorline.com)

  
\_\_\_\_\_  
Manuel A. Gurdian

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of BellSouth )  
Telecommunications, Inc. d/b/a AT&T ) Docket No.100021-TP  
Florida Against LifeConnex Telecom, LLC )  
f/k/a Swiftel, LLCLifeConnex )  
\_\_\_\_\_ )

In re: Complaint of BellSouth ) Docket No.100022-TP  
Telecommunications, Inc. d/b/a AT&T )  
Florida Against Image Access, Inc. d/b/a ) Filed: January 29, 2010  
New Phone )  
\_\_\_\_\_ )

**AT&T FLORIDA'S MOTION FOR CONSOLIDATION**

BellSouth Telecommunications, Inc., d/b/a AT&T Florida ("AT&T Florida") respectfully requests that the Florida Public Service Commission ("the Commission"), consolidate these dockets for the limited purposes of expeditiously resolving the two common issues set forth below.<sup>1</sup> At a minimum, this limited consolidation will result in a more manageable set of issues for resolution in each of the two individual dockets, and it may even eliminate the need for further proceedings in the individual dockets.

**I. LAW**

Rule 28-106.108, Florida Administrative Code provides:

If there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.<sup>2</sup>

Moreover, Rule 28-106.211, Florida Administrative Code provides:

The presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case, including bifurcating the proceeding.

<sup>1</sup> These common issues, and a summary of AT&T Florida's position on them, are set forth in Section IV of the respective Complaints and Petitions for Relief.

<sup>2</sup> Similarly, Rule 1.270(a) of the Florida Rules of Civil Procedure provides: "When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all actions consolidated; and it may make such orders concerning the proceedings therein as may tend to avoid unnecessary costs or delay."

DOCUMENT NUMBER-DATE

00673 JAN 29 09

FPSC-COMMISSION CLERK

For the reasons set forth below, the Commission should exercise its discretion to grant AT&T Florida's motion to consolidate.

## II. ARGUMENT

These two dockets currently address, in the aggregate, more than \$1.3 million of past-due and unpaid balances, and that amount grows each month. Each month, AT&T Florida sends each of the defendants in these dockets (collectively, "Defendant CLECs") bills for services they purchase for resale, and each month the Defendant CLECs refuse to pay a significant portion of those bills. A substantial amount of the Defendant CLECs' respective unpaid balances are subject to one or both of the following common issues between the Defendant CLECs and AT&T Florida: (1) whether AT&T Florida can apply the resale discount approved by this Commission to the cashback component of various promotional offers that AT&T Florida makes available for resale; and (2) whether AT&T Florida's customer referral marketing promotions (such as the "word-of-mouth" promotion) are subject to resale.

The facts associated with these common issues do not vary significantly (if at all) from one docket to the next, and few (if any) of those facts are in dispute. Moreover, the legal issues associated with these common issues are the same from docket to docket. Because the facts and law associated with these common issues are substantially similar across these two dockets, AT&T Florida respectfully requests that the Commission consolidate these two dockets for the limited purpose of expeditiously resolving these common issues. This limited consolidation will achieve the following benefits:

1. the Commission will have the benefit of hearing evidence (if any) and argument from all of the parties involved before issuing a decision on the merits of the two common issues;
2. addressing the two common issues in a single hearing (rather than in two separate hearings) will conserve the time and resources of the Commission, its Staff, and the parties;

3. addressing the two common issues in a single hearing (rather than in two separate hearings) will conserve space on the Commission's already-crowded hearing calendar;
4. an expeditious resolution of the two common issues will break the existing stalemate that results in increasing receivables for AT&T Florida and increasing payables for the Defendant CLECs;
5. an expeditious resolution of the two common issues will provide business certainty for AT&T Florida and the Defendant CLECs on a going-forward basis; and
6. if it does not altogether eliminate the need for further proceedings in the individual dockets, this limited consolidation will result in a more focused and manageable set of issues for resolution in the individual dockets.<sup>3</sup>

### III. CONCLUSION

For the reasons set forth above, AT&T Florida respectfully requests that the Commission consolidate these two dockets for the limited purposes of expeditiously resolving the two common issues set forth above.

Respectfully submitted this 29<sup>th</sup> day of January, 2010.

AT&T FLORIDA



---

E. Earl Edenfield, Jr.  
Tracy W. Hatch  
Manuel A. Gurdian  
c/o Gregory R. Follensbee  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(305) 347-5558

775814

<sup>3</sup> Once the two common issues are resolved, AT&T Florida and one or more of the individual Defendant CLECs likely can reach agreement on the amounts associated those issues. Additionally, once the two common issues are resolved, the remaining amounts due and owing in many cases will be relatively small and likely can be resolved by agreement of the parties. Even if that is not the case, however, the issues that remain after the two common issues are resolved are likely to be fewer, better-defined, and less overlapping than they would be absent the limited consolidation requested by AT&T Florida.